

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-9-C - ORDER NO. 2004-52  
FEBRUARY 5, 2004

IN RE: Petition of Fort Mill Telephone Company	) ORDER REVERSING
d/b/a Comporium Communications	) NANPA DECISION
Requesting the Commission's Intervention in	) WITHHOLDING <i>me</i>
NANPA NXX Code Assignments.	) NUMBERING
	) RESOURCES

This matter comes before the Public Service Commission of South Carolina (Commission) on a Petition for Review of NXX Code Denial filed by Fort Mill Telephone Company d/b/a Comporium Communications (Comporium). The Petition was filed on January 6, 2004. By its Petition, Comporium requests that the Commission review the North American Numbering Plan Administration's (NANPA's) denial of Comporium's application for use of additional central office code numbering resources in the 803 area code. As documentary support to the Petition, Comporium filed the following exhibits: (1) Central Office Code (NXX) Assignment Request (Part 1) and CO Code Assignment/Months-to-Exhaust Certification Request Worksheet that was submitted to NANPA; (2) NANPA's response to Comporium's request for additional numbering resources (form entitled "Central Office Code (NXX) Assignment Request – Part 3"); and (3) Affidavit of Frank Marshall, Business Services manager with Comporium.

On March 31, 2000, the Federal Communications Commission (FCC) issued a Report and Order and Further Notice of Proposed Rule Making relating to numbering resource optimization (“FCC 00-104”). An objective of FCC 00-104 was to implement uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of existing telephone numbers and to avoid further exhaustion of existing numbers under the North American Numbering Plan (NANP).

Among other things, FCC 00-104 adopted a revised standard for assessing a carrier’s need of numbering resources by requesting rate center based utilization rates to be reported to NANPA. The FCC further required that, to qualify for access to new numbering resources, applicants must establish that existing inventory within the applicant’s rate center will be exhausted within six months of the application. See 47 C.F.R. § 52.15(g)(3)(B)(iii). This basis for determining the need for new numbering resources was intended to “more accurately reflect how numbering resources are assigned” and to allow “carriers to obtain numbering resources in response to specific customer demands.” FCC 00-104, ¶ 105.

In addition to the months-to-exhaust (MTE) requirement, the FCC’s rules also require carriers to meet a rate center utilization threshold in order to receive additional numbering resources in a given rate center. 47 C.F.R. § 52.15(h). The utilization threshold was initially 60%, but was to increase by 5% annually beginning June 30, 2002, until the utilization threshold reaches 75%. Id. Accordingly, the current utilization threshold is 70%. In order for NANPA to grant a request for additional numbering

resources, a carrier must meet both the six months MTE requirement and the utilization threshold on a rate center basis. See FCC 01-362 at ¶¶ 49-50.

The FCC's rules require NANPA to withhold numbering resources if a carrier has not met the numbering resource application requirements established in the rules. See 47 C.F.R. § 52.15(g)(3)(iv). However, both the FCC's rules and the Central Office Code (NXX) Assignment Guidelines provide that state regulatory authorities have the power and authority to review NANPA's decision to deny a request for numbering resources. See 47 C.F.R. § 52.15(g)(4) ("The carrier may challenge the NANPA's decision to the appropriate state regulatory commission"); Central Office Code (NXX) Assignment Guidelines § 13.0. The FCC's rules also provide that a state regulatory commission may overturn the NANPA's decision if the state commission determines "that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies." 47 C.F.R. § 52.15(g)(4). In addition, the FCC has determined that states may grant relief "if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory." FCC 01-362, ¶ 64. Further, the FCC has rules that states "may grant requests for customers seeking a contiguous blocks of numbers." Id.

Based upon a review of the Petition, the Commission makes the following Findings of Fact:

1. Comporium is a telecommunications utility regulated by the Commission, and Comporium provides intraLATA, local exchange telecommunications services in the State of South Carolina and in the Fort Mill exchange.

2. NANPA is an independent non-governmental entity that is responsible for administering and managing the North American Numbering Plan (“NANP”).

3. Comporium has received the following specific requests for numbers from customers: (1) Wells Fargo requested an additional 2,000 consecutive numbers to be used in an existing PBX; (2) Wellman, Inc. requested an additional 600 consecutive numbers in an alternate NXX to match the last four digits of its existing block of 600 numbers to be used in an existing PBX; and (3) Leiner Health Products requested an additional 200 consecutive numbers in an alternate NXX to match the last four digits of its existing block of 200 numbers to be used in an existing PBX. See Affidavit of Frank Marshall.

4. Comporium does not have sufficient numbering resources available within its inventory in the Fort Mill rate center to meet those customers’ specific requests. See Affidavit of Frank Marshall.

5. In 2001, Comporium implemented a number administration technique called “sequential numbering” in order to preserve the largest blocks of consecutive numbers for as long as possible. See Affidavit of Frank Marshall.

6. The lack of consecutive numbers in the rate center to meet the specific customer requests described in Finding of Fact 3 is a result of high utilization and not a failure on Comporium’s part to conserve blocks of consecutive numbers. See Affidavit of Frank Marshall.

7. On November 18, 2003, Comporium submitted a Central Office Code (NXX) Assignment Request (Part 1) and CO Code Assignment/Months-to-Exhaust Certification Request Worksheet to NANPA for the assignment of an NXX code needed

to meet the numbering demands of three commercial customers that had requested additional numbering resources. Comporium completed the application in accordance with NANPA's Central Office Code (NXX) Assignment Guidelines and filled out the necessary Months-to-Exhaust Certification Worksheet required by NANPA.

8. At the time of the filing of the Code request, the Fort Mill rate center had a MTE of 14 and a utilization of 76 percent. See CO Code Assignment/Months-to-Exhaust Certification Request Worksheet.

9. On December 3, 2003, NANPA's Central Office Code Administration denied Comporium's code request because Comporium had not met the MTE criterion set forth in the Central Office Code (NXX) Guidelines. See NANPA's response to Comporium's request for additional numbering resources (form entitled "Central Office Code (NXX) Assignment Request – Part 3").

10. For a request for additional numbering resources to be granted by NANPA, a carrier must meet both the six months MTE requirement and the utilization threshold of 70% on a rate center basis.

11. Because Comporium's inability to provide these above-stated customers with the requested numbering resources prevents Comporium from providing the quality of service expected and needed by these customers, as well as prevents Comporium from providing these customers with the telecommunications services of their choice, Comporium has demonstrated a verifiable need for additional numbering resources.

12. Comporium, having sought relief from NANPA and having been denied relief from NANPA, has exhausted all available remedies prior to requesting this Commission to overturn the decision of NANPA.

Based upon the above-stated Findings of Fact, we now state our Conclusions of Law:

#### CONCLUSIONS OF LAW

1. One objective of FCC 00-104 was to implement uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of existing telephone numbers and to avoid further exhaustion of existing numbers under the NANP.

2. FCC 00-104, among other things, adopted a revised standard for assessing a carrier's need of numbering resources by requesting rate center based utilization rates to be reported to NANPA. To qualify for access to new numbering resources, applicants must establish that existing inventory within the applicant's rate center will be exhausted within six months of the application. See 47 C.F.R. § 52.15(g)(3)(B)(iii). This basis for determining the need for new numbering resources was intended to "more accurately reflect how numbering resources are assigned" and to allow "carriers to obtain numbering resources in response to specific customer demands." FCC 00-104, ¶ 105.

3. In addition to the months-to-exhaust (MTE) requirement, the FCC's rules also require carriers to meet a rate center utilization threshold in order to receive additional numbering resources in a given rate center. 47 C.F.R. § 52.15(h). The utilization threshold was initially 60%, but was to increase by 5% annually beginning

June 30, 2002, until the utilization threshold reaches 75%. Id. Accordingly, the current utilization threshold is 70%.

4. In order for NANPA to grant a request for additional numbering resources, a carrier must meet both the six months MTE requirement and the utilization threshold on a rate center basis. See FCC 01-362 at ¶¶ 49-50. At the time of its Code request, Comporium's Fort Mill rate center had a MTE of 14 and a utilization of 76 percent.

5. The FCC's rules require NANPA to withhold numbering resources if a carrier has not met the numbering resource application requirements established in the rules. See 47 C.F.R. § 52.15(g)(3)(iv). Thus, NANPA's denial of Comporium's request was based upon the FCC's rules and orders.

6. Both the FCC's rules and the Central Office Code (NXX) Assignment Guidelines provide that state regulatory authorities have the power and authority to review NANPA's decision to deny a request for numbering resources. See 47 C.F.R. § 52.15(g)(4) ("The carrier may challenge the NANPA's decision to the appropriate state regulatory commission"); Central Office Code (NXX) Assignment Guidelines § 13.0.

7. The FCC's rules also provide that a state regulatory commission may overturn the NANPA's decision if the state commission determines "that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies." 47 C.F.R. § 52.15(g)(4).

8. In addition to demonstrating a verifiable need, the FCC has determined that states may grant relief "if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current

inventory.” FCC 01-362, ¶ 64. Further, the FCC has ruled that states “may grant requests for customers seeking a contiguous blocks of numbers.” Id.

9. From the evidence before us, we have determined that Comporium has stated a verifiable need for numbering resources and that Comporium has exhausted all available remedies. Further, Comporium has demonstrated that it has received specific customers’ requests for numbering resources which Comporium cannot meet with its current inventory and that these specific customers’ requests seek contiguous blocks of numbers. Accordingly, we conclude that NANPA’s decision to withhold numbering resources from Comporium in the Fort Mill exchange interferes with Comporium’s ability to provide telecommunications services as required under South Carolina law, and we further conclude that Comporium has demonstrated sufficient cause for this Commission to overturn NANPA’s decision denying Comporium’s request for additional numbering resources.

Because this Commission finds and concludes that Comporium has provided a sufficient demonstration for this Commission to overturn the NANPA’s denial of Comporium’s request for additional numbering resources, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. That NANPA’s decision to deny Comporium’s request for additional numbering resources is reversed.
2. That NANPA is directed to provide the requested central office code for the Fort Mill Rate Center.



3. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:



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Bruce F. Duke, Executive Director

(SEAL)